

**SUMMARY OF THE  
ENVIRONMENTAL LABORATORY ADVISORY BOARD MEETING  
MAY 11, 2000**

The Environmental Laboratory Advisory Board (ELAB) met via teleconference on Thursday, May 11, 2000, at 1 p.m. Eastern Daylight Time (EDT). The meeting was led by its chair, Dr. J. Wilson Hershey of Lancaster Laboratories, Inc. A list of action items is given in Attachment A. A list of participants is given in Attachment B.

**INTRODUCTION**

ELAB's Acting Designated Federal Officer (DFO) Ms. Jeanne Hankins of the US Environmental Protection Agency (EPA) called the meeting to order. Following a roll call by Dr. Hershey, the minutes from the previous meeting were read and approved. Dr. Hershey then reviewed the status of action items from the previous meeting, as follows:

1. Receipt of Louisiana's assessment training checklist - complete
2. Recommendation on NELAC Measurement of Source Emissions (MSE) Standard - to be addressed in this meeting
3. Draft letter to EPA on Performance-Based Measurement Systems (PBMS) - to be addressed in this meeting
4. PBMS critical review - to be addressed in this meeting
5. Extension of time for open forum meeting room - complete
6. Contact with Office of Solid Waste (OSW) and Office of Prevention, Pesticides, and Toxic Substances (OPPTS) about PBMS implementation - Mr. Harry Gearhart has contacted OSW to schedule a teleconference, but has not yet contacted OPPTS
7. Draft charter for Third-Party Assessor Credentials Subcommittee - Dr. Hershey has received information from the chair, Mr. Mark Marcus
8. ELAB recommendations for Accrediting Authority Review Board (AARB) members - deferred until 2001, per Ms. Hankins
9. Petition to DOT to change sample shipment regulations - to be addressed in this meeting
10. National database - removed from action item list
11. Response to stack sampling letter - Dr. Hershey responded on May 8 with a brief letter
12. Dr. Hershey's attendance at Accrediting Authorities Committee and NELAC Board of Directors (BoD) meetings to present ELAB recommendation that Section 5.12.4 be removed from the NELAC Standards - needs additional work; additional information has been received from Mr. Joe Slayton

The ELAB was joined by invited guests Mr. Daniel Bivins, chair of the newly formed NELAC Field Activities Committee, and Dr. Joanne Wyman, an EPA contractor currently working to resolve the regulatory conflict between EPA and the Department of Transportation (DOT) related to sample preservation and sample shipment. There being no additions to the agenda Dr. Hershey proceeded to the next order of business.

## **ISSUES PERTAINING TO NELAC FIELD ACTIVITIES STANDARD**

Dr. Hershey relayed a request from the NELAC Board of Directors (BoD) that ELAB form a subcommittee to address what has been perceived by some NELAC stakeholders as the prescriptive nature of the Measurement of Source Emissions (MSE) section (Section 7.3) of the proposed NELAC Field Activities Standard. The BoD would like for the subcommittee to issue its report by the end of August 2000. Key points for the subcommittee's charter would be to review and provide recommendations on the content and direction of the MSE Standard. One question is whether the direction of the proposed Standard is consistent with ISO Document 17025, *General Requirements for the Competence of Testing and Calibration Laboratories*. Ms. Hankins noted that even though Mr. Bivins has made an effort to reach out to many organizations, some sectors have not been actively involved in the process and now feel uncomfortable with the direction and pace that the process is taking. In subsequent discussion of the issue, Mr. Bivins noted that the proposed Standard has been significantly revised from what many commenters may have seen and that it is the Field Activities Committee's intent to hold a public stakeholder meeting sometime after NELAC VI to get additional input on the Standard. It was agreed that ELAB members will need to review both the proposed Section 7.3 and ISO 17025. Mr. Bivins agreed to provide Dr. Hershey with a copy of the proposed Standard for distribution to the rest of the ELAB. Mr. David McClure volunteered to chair the subcommittee. He noted that his schedule would be quite full until after June, but would begin work on soliciting members. The issue was tabled for discussion at a future meeting pending a report from the subcommittee.

## **SUBCOMMITTEE REPORTS**

### **NELAC-ISO Consistency Subcommittee**

Mr. Peter Spath reported that a comparison of ISO 17025 to the NELAC Standards is planned for the ELAB Open Forum to be held in conjunction with NELAC VI. In discussion of assessor training materials, he reported that he had had the opportunity to speak with an assessor who referenced comments made by Dr. Ken Jackson concerning the pilot NELAC Assessor Training Course. Ms. Hankins indicated that she would provide Dr. Hershey with a copy of Dr. Jackson's comments for distribution to the rest of the ELAB.

### **Performance-Based Measurement Systems (PBMS) Subcommittee**

Mr. Gearhart reported on the progress of the letter to EPA asking for clarification of PBMS intent. Since Mr. David Friedman was unavailable to discuss EPA's response to ELAB's January 1999 letter of recommendations to EPA, Mr. Gearhart did not know when to expect the response. Concurrent communications with the OSW are in progress. Mr. Gearhart indicated his intent to submit the draft letter to Dr. Hershey before NELAC VI. Mr. Gearhart distributed the subcommittee's critical review and welcomed comments. The subcommittee will meet via teleconference in early June and in person at NELAC VI to discuss the critical review. Finally, Mr. Gearhart indicated that an approximately 15-minute PBMS presentation to stakeholders will be given by Mr. Friedman at the ELAB meeting to be held in conjunction with NELAC VI.

### **Regulatory Consistency Subcommittee**

Mr. Jerry Parr reported that although the subcommittee has not yet been able to schedule a teleconference to develop a charter, the main focus will be to review new and proposed regulations and to make comments where appropriate. Mr. Parr cited the new hazardous waste identification rule as one example and noted that the comment period has been extended into August.

### **National Laboratory Accreditation Subcommittee**

There was moderate discussion of a miscommunication concerning who would chair the subcommittee and of whether such an effort is still necessary. It was generally agreed that the subcommittee's scope would be to produce a white paper reviewing the over-all value of a national laboratory accreditation program and assessing where NELAC fits into the picture. Mr. Parr indicated that he is willing to chair the subcommittee. He will be joined by Mr. Gearhart, Mr. McClure, and Mr. Jim Kendzel. Mr. Parr will distribute copies of his various pertinent documents to the subcommittee.

### **Third-Party Assessor Credentials Subcommittee**

In the absence of Mr. Marcus, the ELAB discussed the draft charter Mr. Marcus had submitted to Dr. Hershey. Ms. Hankins expressed the belief that the charter's scope and purpose are not consistent with ELAB's charge. She noted that the underlying question is whether third-party assessors should be held to different standards than first-party assessors. ELAB was requested to identify requirements and establish credentials but not to develop a list of third-party assessors or to compare organizations. The ELAB subcommittee was referred to the December 1999 ELAB meeting minutes for clarification. Dr. Hershey noted that he will speak to Mr. Marcus, refer him to the December 1999 minutes, and request another charter.

### **Scope of Accreditation Subcommittee**

Mr. Parr reported that the subcommittee has finished its work and he is summarizing the findings in document form. The subcommittee did not reach a consensus, but identified several alternatives and spelled out the advantages and disadvantages of each. The subcommittee did agree that 'analyte' and 'EPA program' would not be included in scope of accreditation. Mr. Parr noted that he would like to include the scope of accreditation issue in the ELAB agenda for the June meeting in conjunction with NELAC VI. Consequently, he indicated that he would issue the draft subcommittee report to ELAB and the NELAC committee chairs within the week so that they can review the report before the June meeting. Mr. Parr also informed the ELAB that there will be a scope of accreditation special session at NELAC VI to include the NELAC Program Policy and Structure, Regulatory Coordination, and Proficiency Testing Committees.

### **DOT REGULATORY CONFLICT ISSUE**

Dr. Wyman, an EPA-contractor, framed the issue for the ELAB. Her employer has an active work assignment with Mr. Friedman to review and to work toward the resolution of the inconsistency between EPA regulations on sample preservation and shipping and the Department of Transportation's (DOT) regulations on pH and head space. One way to resolve the regulatory conflict is to prepare an Exemption Petition. However, an Exemption Petition is typically narrowly framed and only granted for a two-year period of time, after which it must be renewed. The Exemption Petition seems an inefficient process for reducing the regulatory conflict. The alternative is to petition DOT to change their regulations. Dr. Wyman noted that it is important that all issues are crystallized, appropriately

articulated, and put in priority order to assemble an effective petition packet. To that end she requested an ELAB taskforce to help her identify some of the issues and to provide documentation and scientific information in support of the petition to DOT to change their regulations. Examples of such support include information on instances of regulatory conflict that have already occurred, information on the corrosivity of the preserved samples, and information on the hazards posed by the preserved samples. In response to Dr. Wyman's request the ELAB noted the need to seek input from technical personnel within the broader community, specifically chemists with a high degree of technical credibility, and suggested several qualified individuals.

A member of ELAB noted the long history of regulatory communication between EPA and DOT and asked whether petitioning DOT to change their regulations would require a long time frame. It was suggested that a concurrent effort be directed toward EPA to relax or eliminate their preservation requirements. After some discussion it was moved, seconded, and approved unanimously that

**ELAB draft a letter directed to the Assistant Administrators of EPA OW and OSW requesting that EPA relax or eliminate their preservation requirements for samples.**

Mr. Parr indicated that he will draft the letter for ELAB signature.

#### **EXPANDED PT SCOPE**

Mr. Parr referenced a packet of materials, constituting a cover letter to Dr. James Pearson, NELAC Chair, and supporting documentation for recommended changes to the NELAC Quality Systems Standard. After some discussion of method blanks where it was noted that a regulatory limit may be extremely close to a reporting limit, Mr. Parr indicated that he will revise the language of that portion of the letter and submit it to Dr. Hershey for ELAB distribution and review. In order to meet a goal of releasing the materials to the NELAC Quality Systems Committee before NELAC VI, Dr. Hershey encouraged ELAB members to submit comments to Mr. Parr by May 17, 2000. The revised materials will be submitted to Dr. Pearson, copying Ms. Hankins and Mr. Slayton, chair of the NELAC Quality Systems Committee.

#### **TRANSITION COMMITTEE UPDATE**

Mr. Parr informed the ELAB that the NELAC Transition Committee has concluded its efforts on identifying options for the future of NELAC. The committee has identified three options:

- C Option 1 - NELAC administration performed by a private nonprofit organization with EPA retaining oversight of certain key functions (approval and oversight of Accrediting Authorities, accreditation of at least one state laboratory in each state, and chartering ELAB)
- C Option 2 - Maintaining the *status quo*
- C Option 3 - No EPA oversight of NELAC

The BoD has requested a meeting with Dr. Norine Noonan, Assistant Administrator of EPA's Office of Research and Development (ORD) before NELAC VI. The BoD will then report to the Conference on future directions.

It was noted that EPA is not specifically funded to administer NELAC. Consequently, any monies taken from other programs for NELAC are not replaced with equivalent funds. Support for NELAC is

provided from general EPA funds, not one specific program office. The Office of the Deputy Administrator has consistently supported NELAC but there has been frequent turnover in this position. Therefore, it is necessary to update each new Deputy Administrator when appointed. In discussion of the three options, ELAB members voiced two main concerns about changing the current system — loss of momentum in the NELAC process and the potential that few additional states would come aboard as Accrediting Authorities. ELAB members noted that they would consider it very unfortunate if NELAC self-limits after the considerable effort and significant investment that has already been expended. Despite indications that EPA will not accept the second option, it was suggested that ELAB strongly recommend this option. Following moderate discussion of the issue, it was moved, seconded, and approved unanimously that

**ELAB reaffirm the importance of EPA retaining a strong leadership role in NELAC by 1) noting their belief that NELAC would no longer exist if a private nonprofit organization assumed functions currently performed by EPA and 2) voicing their concerns that reduction of EPA support would cause loss of momentum and negatively impact the enrollment of additional states as Accrediting Authorities.**

It was also noted that some individuals think the private sector is not well represented in NELAC. Following discussion of the issue, it was moved, seconded, and approved unanimously that

**ELAB express support for the current NELAC process for including private sector input, as it is working effectively.**

Mr. Parr indicated that he will draft language on both issues and then decide whether the two issues constitute one or two letters. It was decided that the recommendations be made to the NELAC BoD as soon as possible for inclusion in their discussion with Dr. Noonan. It was noted that the next NELAC BoD meeting is scheduled for June 8 via teleconference. Dr. Hershey accepted an invitation to present ELAB's position at this meeting.

## **REVIEW OF PUBLIC COMMENTS**

Dr. Hershey informed ELAB that he had received a comment from a laboratory in California regarding bulk asbestos testing. The commenter specifically questioned meeting NELAC criteria since the National Voluntary Laboratory Accreditation Program (NVLAP) is tasked with accrediting asbestos laboratories. After some discussion of NVLAP accreditation as it applies to asbestos in schools and the layering of NELAC requirements on top of NVLAP requirements, it was agreed that it is up to the particular state as to whether they will accept NVLAP accreditation rather than NELAC accreditation.

## **SMALL LAB ISSUES**

There were no small lab issues for discussion.

## **LEGAL CHAIN OF CUSTODY PROTOCOL**

There was discussion of Appendix E to Chapter 5 of the NELAC Standards. Changes have been made to the language of the appendix regarding the difference between sample tracking and chain of custody. A number of states and commercial laboratories claim that sample tracking is what is referred to as "chain of custody" in Chapter 5. Although ELAB members noted that the changes make the appendix "better," they also noted that different states have different requirements for chain of custody.

It was noted that the NELAC Quality Systems Committee had rejected ELAB's recommendation to remove the appendix and had taken the matter to the NELAC BoD. The issue has not totally been resolved. Ms. Hankins indicated that the comments she received on the matter from the BoD were mixed and that the issue needs to go back to the NELAC BoD so that all sides can present their arguments. Mr. Parr referenced ASTM Volume 11.01, Standard D4840 (1995), *Standard Guide for Sampling Chain of Custody Procedures*, and suggested bringing the reference to the attention of the NELAC BoD. It was also suggested that ELAB refer the BoD to the first section of Chapter 5, which makes it clear that this is not an essential requirement to be accredited. Dr. Hershey noted that he would contact Mr. Slayton regarding the issue.

## **NEW BUSINESS**

Ms. Hankins relayed requests from for replacement for contributors on two NELAC committees. The NELAC Program Policy and Structure Committee, addressing scope of accreditation, seeks one additional contributor. The NELAC Quality Systems Committee has expressed a desire for a contributor who is an environmental microbiologist.

## **CONCLUSION**

There being no new business, Dr. Hershey reminded ELAB members that the next meeting will be a face-to-face meeting at the open forum on Monday, June 26, and then again on Wednesday, June 28. Since the allotted time for the meeting was drawing to a close, Ms. Hankins adjourned the meeting shortly before 4:00 p.m. EDT.

*Note: See April 11, 2000, summary for complete list of recommendations.*

**ACTION ITEMS  
ENVIRONMENTAL LABORATORY ADVISORY BOARD  
MAY 11, 2000**

<b>Item No.</b>	<b>Action</b>	<b>Status</b>
1.	ELAB will for establish a subcommittee to address MSE issues.	
2.	Ms. Hankins will provide ELAB with a copy of Dr. Ken Jackson's comments on pilot assessor training materials.	
3.	Mr. Gearhart will complete draft letter on PBMS.	
4.	Regulatory Consistency Subcommittee will meet to develop charter.	
5.	Mr. Parr will distribute pertinent documents to ELAB for review and reference in preparing white paper.	
6.	Dr. Hershey will contact Mr. Marcus to clarify scope and purpose of Third-Party Assessor Credentials Subcommittee charter.	
7.	Mr. Parr will complete draft Scope of Accreditation Subcommittee report.	
8.	Mr. Parr will refer chemists to Dr. Wyman for support in preparation of DOT petition packet.	
9.	Mr. Parr will revise expanded PT scope language relating to method blanks for ELAB review and comment.	
10.	Mr. Parr will draft language reaffirming the importance of EPA retaining a strong leadership role in NELAC and expressing support for the current private sector model for NELAC. The language will constitute a letter or letters to the NELAC BoD.	
11.	Dr. Hershey will respond to asbestos analysis laboratory accreditation concerns.	
12.	Dr. Hershey will contact Mr. Slayton concerning legal chain of custody protocol issues.	
13.	ELAB will seek volunteers to serve on the NELAC Program Policy and Structure and Quality Systems Committees.	

**PARTICIPANTS**  
**ENVIRONMENTAL LABORATORY ADVISORY BOARD**  
**MAY 11, 2000**

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